

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SYMBOL TECHNOLOGIES, INC., a Delaware corporation, and WIRELESS VALLEY COMMUNICATIONS, INC., a Delaware corporation,

Plaintiffs and Counter-Defendants,

v.

ARUBA NETWORKS, INC., a Delaware corporation,

Defendant and Counter-Claimant.

C.A. No. 07-519-JJF

SECOND DECLARATION OF ETAI LAHAV IN SUPPORT OF ARUBA NETWORKS, INC.'S MOTION FOR LEAVE TO AMEND ITS ANSWER AND FOR LEAVE TO SERVE COUNTERCLAIMS ON MOTOROLA, INC.

I, Etai Lahav, declare as follows:

1. I am an attorney in the law firm of Weil, Gotshal & Manges, LLP, counsel for Defendant Aruba Networks, Inc. ("Aruba") in this matter. I am a member of the bar of the State of New York. I submit this declaration in support of Aruba's Motion for Leave to Amend its Answer and for Leave to Serve Counterclaims on Motorola, Inc.

2. Attached hereto as Exhibit 1 is a true and correct copy of an email from Paul Torchia of Weil, Gotshal & Manges, LLP, counsel for Aruba, to Arun Chandra and Eric Lobenfeld of Hogan & Hartson LLP, counsel for Plaintiffs, dated July 11, 2008.

3. Attached hereto as Exhibit 2 is a true and correct copy of a series of emails between Paul Torchia and Arun Chandra, exchanged between June 20-23, 2008.

4. Attached hereto as Exhibit 3 is a true and correct copy of a series of emails from Arun Chandra to Paul Torchia, dated July 16, 2008.

5. Attached hereto as Exhibit 4 is a true and correct copy of Aruba's First Supplemental Initial Disclosures, served on August 11, 2008.

6. Attached hereto as Exhibit 5 is a true and correct copy of a letter from Arun Chandra to Paul Torchia, dated July 31, 2008.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 14, 2008
New York, NY

A handwritten signature in cursive script, appearing to read 'Etai Lahav', written in black ink.

Etai Lahav

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2008, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and which has also been served as noted:

VIA E-MAIL & HAND DELIVERY

Richard L. Horwitz
David E. Moore
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1313 N. Market Street
P.O. Box 951
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rhorwitz@potteranderson.com
dmoore@potteranderson.com

VIA E-MAIL

Eric J. Lobenfeld
Ira J. Schaefer
Lawrence Brocchini
Arun Chandra
Hogan & Hartson, L.L.P.
875 Third Avenue
New York, NY 10022
ejlobenfeld@hhlaw.com
ijschaefer@hhlaw.com
lbrocchini@hhlaw.com
achandra@hhlaw.com

/s/ Frederick L. Cottrell, III
Frederick L. Cottrell, III (#2555)
cottrell@rlf.com

EXHIBIT 1


Paul Torchia/NY/WGM/US

07/11/2008 06:57 PM

To AChandra@HHLAW.com, EJLobenfeld@HHLAW.com

cc IJSchaefer@HHLAW.com, MSFeller@HHLAW.com,
ArubaDelService@weil.com

bcc

Subject Aruba- amended answer and counterclaims 

Arun, Eric

Aruba intends to seek leave to amend the pleadings and assert two patents against Symbol, Wireless Valley, and Motorola.

Attached is a proposed Amended Answer and Counterclaims.

Please let us know if you will consent to our motion to amend and to join Motorola.

Paul



SecondAmendedAnswerREDLINE.PDF



SecondAmendedAnswer.PDF

EXHIBIT 2

From: "Chandra, Arun" [AChandra@HHLAW.com]
Sent: 06/23/2008 03:30 PM AST
To: Paul Torchia; ArubaDelService@weil.com
Cc: "Lobenfeld, Eric J." <EJLobenfeld@HHLAW.com>; "Schaefer, Ira J." <IJSchaefer@HHLAW.com>; "Feller, Mitchell S." <MSFeller@HHLAW.com>; "Chandra, Arun" <AChandra@HHLAW.com>
Subject: RE: Symbol v. Aruba: Document Production

Paul,

We can agree to give you two additional months for Section 4(a) discovery and agree to close of fact discovery by January 30th on the express condition that we agree on the document production protocol now and start a rolling document production. We do not want to delay the discovery process any longer, and see no reason for not deciding on a document production protocol.

Also, since the scheduled dates were in the Court's Rule 16 Scheduling Order, will you draft the necessary stipulation and send it to us?

-Arun

Arun Chandra, ATTORNEY AT LAW
HOGAN & HARTSON LLP
875 Third Avenue, New York, NY 10022
direct +1.212.918.3547 | tel +1.212.918.3000 | fax +1.212.918.3100
AChandra@hhlaw.com | <http://www.hhlaw.com>

From: Paul.Torchia@weil.com [mailto:Paul.Torchia@weil.com]

Sent: Friday, June 20, 2008 4:00 PM
To: Chandra, Arun
Cc: Lobenfeld, Eric J.; Schaefer, Ira J.; Feller, Mitchell S.; ArubaDelService@weil.com
Subject: RE: Symbol v. Aruba: Document Production

Arun-

Addition of Airwave to the case would be a major undertaking and we would need more than one additional month to accommodate it.
Would you be agreeable to pushing the two discovery dates in section 4(a) of the scheduling order out two months?
That would mean moving the document/contention/witness identification date to October 15, 2008, and the close of discovery date to January 30, 2009.

Paul

"Chandra, Arun"
<AChandra@HHLAW.com>

06/20/2008 12:48 PM

To Paul.Torchia@weil.com
cc "Lobenfeld, Eric J." <EJLobenfeld@HHLAW.com>, "Schaefer, Ira J." <IJSchaefer@HHLAW.com>, "Feller, Mitchell S." <MSFeller@HHLAW.com>, ArubaDelService@weil.com, "Chandra, Arun" <AChandra@HHLAW.com>
Subject RE: Symbol v. Aruba: Document Production
bje
ct

Paul,

We can agree to give you an additional month for document production (but no other changes regarding any other dates) on the condition that we reach agreement on the document production protocol now.

As you know, not having a protocol in place will lead to additional delays down the road, which we want to avoid. Also, once we get an agreement on the document production protocol, it will make the document collection and review process more efficient for both parties.

Let us know if you are okay with this and when we can hear

from you regarding the document production protocol.

Thanks.

-Arun

Arun Chandra, ATTORNEY AT LAW
HOGAN & HARTSON LLP
875 Third Avenue, New York, NY 10022
direct +1.212.918.3547 | tel +1.212.918.3000 | fax +1.212.918.3100
AChandra@hhlaw.com | <http://www.hhlaw.com>

From: Paul.Torchia@weil.com [mailto:Paul.Torchia@weil.com]
Sent: Friday, June 20, 2008 11:23 AM
To: Chandra, Arun
Cc: Lobenfeld, Eric J.; Schaefer, Ira J.; Feller, Mitchell S.; ArubaDelService@weil.com
Subject: RE: Symbol v. Aruba: Document Production

Arun-

I wanted to write to follow up on our call today.

As you know, plaintiffs identified Airwave products as accused products for the first time in their discovery responses served a few days ago. Airwave, a company acquired by Aruba last march, was not mentioned in the complaint, plaintiffs initial disclosures, or discovery requests.

As you state below we have less than two months left in the document discovery period. That is not enough time to accommodate addition of Airwave to the case. We raised the possibility of a compromise conditioned on pushing out discovery dates, and you said that you would have to get back to me. Until we bottom out on this, it is hard for me to commit to a detailed document discovery protocol. Please let me know if you would be willing to move the document and written discovery deadlines out (without an adjustment to the Markman date or the trial date).

On our call, we agreed to disagree on the issue of whether plaintiffs have properly put Airwave products at issue. That is not something we need to debate now, but please understand that we are not conceding anything on that point by raising this compromise proposal.

Paul

EXHIBIT 3



"Chandra, Arun"
<AChandra@HHLAW.com>

07/16/2008 09:47 AM

To Paul.Torchia@weil.com, ArubaDelService@weil.com

cc "Schaefer, Ira J." <IJSchaefer@HHLAW.com>, "Feller,
Mitchell S." <MSFeller@HHLAW.com>, "Lobenfeld, Eric J."
<EJLobenfeld@HHLAW.com>, "Chandra, Arun"
<AChandra@HHLAW.com>

Subject RE: Aruba- amended answer and counterclaims

I meant, Plaintiffs will not consent to Aruba's proposed motion to amend. Sorry for the typo.

Arun Chandra, ATTORNEY AT LAW
HOGAN & HARTSON LLP
875 Third Avenue, New York, NY 10022
direct +1.212.918.3547 | tel +1.212.918.3000 | fax +1.212.918.3100
AChandra@hhlaw.com | <http://www.hhlaw.com>

From: Chandra, Arun
Sent: Wednesday, July 16, 2008 9:38 AM
To: Paul.Torchia@weil.com; ArubaDelService@weil.com
Cc: Schaefer, Ira J.; Feller, Mitchell S.; Lobenfeld, Eric J.; Chandra, Arun
Subject: RE: Aruba- amended answer and counterclaims

Paul,

Plaintiffs will not consent to Aruba's proposed motion to attend. If Aruba files its proposed motion to attend, Plaintiffs intend to oppose it.

-Arun

Arun Chandra, ATTORNEY AT LAW
HOGAN & HARTSON LLP
875 Third Avenue, New York, NY 10022
direct +1.212.918.3547 | tel +1.212.918.3000 | fax +1.212.918.3100
AChandra@hhlaw.com | <http://www.hhlaw.com>

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SYMBOL TECHNOLOGIES, INC., and
WIRELESS VALLEY COMMUNICATIONS,
INC.,

Plaintiffs,

v.

ARUBA NETWORKS, INC.,

Defendant.

C. A. No. 07-519-JJF

**FIRST SUPPLEMENTAL INITIAL DISCLOSURES OF ARUBA NETWORKS, INC.
PURSUANT TO FED. R. CIV. P. 26(a)(1)**

Aruba Networks Inc. ("Aruba"), by its counsel, hereby provides the following information pursuant to Fed. R. Civ. P. 26(a)(1).

Aruba's investigation of the matters discussed herein is ongoing, and Aruba expressly reserves the right to supplement the information provided in these disclosures, through the discovery process in this case, as additional information is discovered or becomes available. As such, Aruba does not represent that it is identifying every document, tangible thing, or witness possibly relevant to this lawsuit. Rather, Aruba's disclosures represent a good faith effort to identify information it reasonably believes is required by Fed. R. Civ. P. 26(a)(1).

These disclosures are made without waiving the right to object to production of any document or tangible thing disclosed on the grounds of competency, privilege, relevancy and materiality, hearsay, undue burden, or any other proper ground; the right to object to the use of any such information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; or the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures.

**A. Individuals Likely to Have Discoverable Information
That Aruba May Use to Support Its Claims or Defenses**

The names, titles, and last-known addresses (where applicable) of individuals who may possess discoverable information are provided below. Present and former employees of Aruba should be contacted through Aruba's counsel of record in this case.

	Individual	Subject Matter
1.	A corporate representative of Symbol Technologies Inc. One Motorola Plaza Holtsville, New York 11742	Matters related to U.S. Patent Nos. 7,173,922 (the '922 patent) and 7,173,923 (the '923 patent) (together "the Symbol patents") and related patents including, without limitation, inventorship, compliance with 35 U.S.C. §§ 101-103, 112 and 287, claim construction, diligence, reduction to practice and inequitable conduct; Symbol products; prior art; discussions between Symbol and Aruba; and related issues.
2.	A corporate representative of Wireless Valley Communications Inc. 4515 Seton Center Parkway Suite 330 Austin, Texas 78759	Matters related to U.S. Patent Nos. 6,625,454 (the '454 patent) and 6,973,622 (the '622 patent) (together "the Wireless Valley patents") and related patents including, without limitation, inventorship, compliance with 35 U.S.C. §§ 101-103, 112 and 287, claim construction, diligence, reduction to practice and inequitable conduct; Wireless Valley products; prior art; and related issues.
3.	A corporate representative of Motorola, Inc. 1303 East Algonquin Road Schaumburg, Illinois 60196	Matters related to the acquisition of Symbol and Wireless Valley and the valuation of the Patents-in-suit; prior art relating to the Patents-in-suit; and the decision to file this lawsuit.
4.	Aaron Bernstein One Motorola Plaza Holtsville, New York 11742	Matters related to Symbol's pre-filing investigation, decision to sue, and press releases relating to this lawsuit.
5.	Robert Beach 1850 Middleton Avenue Los Altos, California 94204	Matters related to the Symbol patents and related patents including, without limitation, inventorship, compliance with 35 U.S.C. §§ 101-103, and 112, claim construction, diligence, reduction to practice and inequitable conduct; prior art; and related issues.

6.	Theodore Rappaport 8615 Hearn Street Austin, TX 78703	Matters related to the Wireless Valley patents and related patents including, without limitation, inventorship, compliance with 35 U.S.C. §§ 101-103, and 112, claim construction, diligence, reduction to practice and inequitable conduct; prior art; and related issues.
7.	Roger Skidmore 8121 Jester Boulevard Austin, TX 78750	Matters related to the Wireless Valley patents and related patents including, without limitation, inventorship, compliance with 35 U.S.C. §§ 101-103, and 112, claim construction, diligence, reduction to practice and inequitable conduct; prior art; and related issues.
8.	Benjamin Henty 1 Watson Mill Lane Newtown, PA 18940	Matters related to the Wireless Valley patents and related patents including, without limitation, inventorship, compliance with 35 U.S.C. §§ 101-103, and 112, claim construction, diligence, reduction to practice and inequitable conduct; prior art; and related issues.
9.	Eric Reifsneider 12031 Wicker Drive Chapel Hill, NC 27517	Matters related to the Wireless Valley patents and related patents including, without limitation, inventorship, compliance with 35 U.S.C. §§ 101-103, and 112, claim construction, diligence, reduction to practice and inequitable conduct; prior art; and related issues.
10.	Baker Botts LLP 30 Rockefeller Plaza 44th Floor New York, New York 10112 Telephone: (212) 408-2500	The prosecution of the Symbol patents and related issues.
11.	James J. Maune 121 Harvard Drive Plainview, New York 11803 Telephone: (516) 367-7066	The prosecution of the Symbol patents and related issues.
12.	Robert L. Maier Baker Botts LLP 30 Rockefeller Plaza New York, New York 10112 Telephone: (212) 408.2538	The prosecution of the Symbol patents and related issues.
13.	Manu J. Tejwani 1327 Ethan Ct Yorktown, NY 10598 Telephone: (914) 962-0679	The prosecution of the Symbol patents and related issues.

14.	Ingrassia Fisher & Lorenz, P.C. 7010 E Cochise Rd Scottsdale, Arizona 85252 Telephone: (480) 385-5060	The prosecution of the Symbol patents and related issues.
15.	Timothy J. Lorenz Ingrassia Fisher & Lorenz, P.C. 7010 E Cochise Rd Scottsdale, Arizona 85252 Telephone: (480) 385-5060	The prosecution of the Symbol patents and related issues.
16.	Glenn F. Frankenberger Motorola, Inc. One Motorola Plaza M/S A-6 Holtsville, NY 11742 Telephone (631) 738-5570	The prosecution of the Symbol patents and related issues.
17.	Laurie E. Gathman Phillips Electronics 345 Scarborough Road P.O. Box 3001 Briarcliff Manor, NY 10510 Telephone: (914) 333-9606	The prosecution of the Symbol patents and related issues.
18.	Erin P. Madill Ingrassia Fisher & Lorenz, P.C 12520 High Bluff Drive, Suite 260 San Diego, California 92130 Telephone (858) 755-6220	The prosecution of the Symbol patents and related issues.
19.	Mark I. Koffsky SMSC 80 Arkay Drive Happauge, NY 11788 Telephone (631) 435-6838	The prosecution of the Symbol patents and related issues.
20.	Brett A. Carlson Ingrassia Fisher & Lorenz, P.C. 7010 E Cochise Rd Scottsdale, Arizona 85252 Telephone: (480) 385-5060	The prosecution of the Symbol patents and related issues.
21.	Frank Ma ADDRESS UNKNOWN	Symbol's investigation of Aruba products.
22.	Whitham, Curtis, Christofferson & Cook, P.C. 11491 Sunset Hills Road, Suite 340 Reston, Virginia 20190 Telephone: (703) 787-9400	The prosecution of the Wireless Valley patents and related issues.

23.	C. Lamont Whitham Whitham, Curtis, Christofferson & Cook, P.C. 11491 Sunset Hills Road, Suite 340 Reston, Virginia 20190 Telephone: (703) 787-9400	The prosecution of the Wireless Valley patents and related issues.
24.	Michael Whitham Whitham, Curtis, Christofferson & Cook, P.C. 11491 Sunset Hills Road, Suite 340 Reston, Virginia 20190 Telephone: (703) 787-9400	The prosecution of the Wireless Valley patents and related issues.
25.	Indira Saladi Motorola, Inc. 1301 E. Algonquin Road IL02/SH5 Schaumburg, Illinois 60149 Telephone (847) 576-6735	The prosecution of the Wireless Valley patents and related issues.
26.	Partha Narasimhan Aruba Networks, Inc. 1344 Crossman Avenue, Sunnyvale, CA 94089-1113 Mr. Narasimhan can be contacted via Weil, Gotshal & Manges LLP	Design and operation of Aruba's products.
27.	Mike Tennefoss Aruba Networks, Inc. 1344 Crossman Avenue, Sunnyvale, CA 94089-1113 Mr. Tennefoss can be contacted via Weil, Gotshal & Manges LLP.	Knowledge of the marketing and sales of Aruba's products.
28.	Steffan Tomlinson, CFO Aruba Networks, Inc. 1344 Crossman Avenue, Sunnyvale, CA 94089-1113 Mr. Tomlinson can be contacted via Weil, Gotshal & Manges LLP.	Knowledge of financial matters at Aruba.
29.	Pradeep Ayer Aruba Networks, Inc. 1344 Crossman Avenue, Sunnyvale, CA 94089-1113 Mr. Ayer can be contacted via Weil, Gotshal & Manges LLP	Design and operation of Aruba's products.

30.	<p>John Taylor Aruba Networks, Inc. 1344 Crossman Avenue, Sunnyvale, CA 94089-1113</p> <p>Mr. Taylor can be contacted via Weil, Gotshal & Manges LLP</p>	Design and operation of Aruba's products.
31.	<p>Jason Luther Aruba Networks, Inc. 1700 South El Camino Real Suite 500 San Mateo, CA 94402</p> <p>Mr. Luther can be contacted via Weil, Gotshal & Manges LLP</p>	Design and operation of AirWave's products. The prosecution of AirWave's patent and related issues.
32.	<p>Paul Gray Aruba Networks, Inc. 1700 South El Camino Real Suite 500 San Mateo, CA 94402</p> <p>Mr. Gray can be contacted via Weil, Gotshal & Manges LLP</p>	Design and operation of AirWave's products. The prosecution of AirWave's patent and related issues.
33.	<p>Greg Murphy Aruba Networks, Inc. 1344 Crossman Avenue, Sunnyvale, CA 94089-1113</p> <p>Mr. Murphy can be contacted via Weil, Gotshal & Manges LLP</p>	Knowledge of the marketing and sales of AirWave's products.
34.	<p>Brian Wargo Aruba Networks, Inc. 1700 South El Camino Real Suite 500 San Mateo, CA 94402</p> <p>Mr. Wargo can be contacted via Weil, Gotshal & Manges LLP</p>	Knowledge of the marketing and sales of AirWave's products.

B. Description by Category and Location of Documents and Things That Aruba May Use to Support Its Claims or Defenses

	Category	Location
1.	File histories and prior art references cited by the Patent Office during prosecution of the patents-in-suit	Publicly available documents that may be obtained from the United States Patent and Trademark Office in Alexandria, Virginia
2.	Documents relating to prior art not disclosed to the Patent Office during prosecution of the patents-in-suit	The files of Motorola, Symbol, Wireless Valley
3.	Documents relating to the design, development, and operation of Plaintiffs' products	The files of Motorola, Symbol, Wireless Valley
4.	Documents relating to the marketing and sale of Plaintiffs' products	The files of Motorola, Symbol, Wireless Valley
5.	Documents relating to Plaintiffs' decision to file this suit	The files of Motorola, Symbol, Wireless Valley
6.	Documents relating to the acquisition of Plaintiffs by Motorola and the valuation of the Patents-in-Suit	The files of Motorola, Symbol, Wireless Valley
7.	Documents relating to the design, development, and operation of Aruba's and AirWave's products	Internal Aruba and AirWave servers
8.	Documents relating to the marketing and sale of Aruba's and AirWave's products	Internal Aruba and AirWave servers

C. Computation of Damages Claimed By Aruba

Aruba seeks costs and attorneys' fees, and such other relief as the Court deems appropriate. Neither the amount of Aruba's fees and costs nor the amount of any other relief that may be deemed appropriate is ascertainable at this time.

D. Any Insurance Agreement That May Be Available To Satisfy Part Or All of a Judgment Against Aruba

Aruba is not aware of any insurance agreement under which an insurance business may

be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy any such judgment.

OF COUNSEL:

Matthew D. Powers
Weil, Gotshal & Manges LLP
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201 Redwood Shores Parkway
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(650) 802-3000

Nicholas Groombridge
Paul E. Torchia
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767 Fifth Avenue
New York, NY 10153-0119
(212) 310-8000

/s/ Frederick L. Cottrell, III

Frederick L. Cottrell, III (#2555)
cottrell@rlf.com
Richards, Layton & Finger, P.A.
One Rodney Square, P.O. Box 551
Wilmington, DE 19899
(302) 651-7700
Attorneys for Defendant
Aruba Networks, Inc.

Dated: August 11, 2008

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2008, a true and correct copy of the foregoing document was caused to be served on counsel of record at the following addresses as indicated:

By Electronic Mail and Hand Delivery

Richard L. Horwitz
David E. Moore
Potter, Anderson & Corroon, LLP
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801

By Electronic Mail

Eric J. Lobenfeld
Ira J. Shaefer
Lawrence Brocchini
Arun Chandra
Hogan & Hartson, L.L.P.
875 Third Avenue
New York, NY 10022

/s/ Frederick L. Cottrell, III
Frederick L. Cottrell, III (#2555)

Date: August 11, 2008

EXHIBIT 5

HOGAN & HARTSON

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www.hhlaw.com

July 31, 2008

Arun Chandra
Associate
212-918-3547
achandra@hhlaw.com

VIA ELECTRONIC MAIL AND HAND DELIVERY

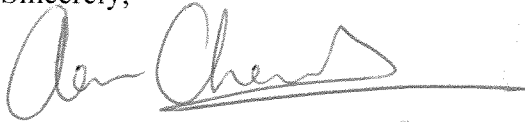
Paul E. Torchia, Esq.
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153-0119

Re: *Symbol Technologies, Inc. et al. v. Aruba Networks, Inc.*,
Civil Action No. 07-519-JJF (D. Del)

Dear Paul:

Enclosed please find 3 disks containing documents bearing the following production numbers: SBLWV_ARUBA00014369 to SBLWV_ARUBA00101888. Please note that documents designated as "Confidential" or "Highly Confidential – Outside Counsel Only" should be treated under the provisions of the District of Delaware Local Rule 26.2, until entry of a Protective Order in this case.

Sincerely,



Arun Chandra

Enclosures

cc: Dawn Marie Mulvey